IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8310 OF 2004

Anwar Ishak Mushrif ... Petitioner

v/s

Abdul Kader Razak Mushrif ... Respondent

Ms A.R.S. Baxi for Petitioner.

Mr P.L. Mahadik for Respondent.

CORAM : D.K. DESHMUKH J.

DATE : 20TH JULY 2005.

P.C. :-

1. The consequence of the order which is impugned in the petition is that the application filed by the original defendant for recall of the order dated 29th December 1999 would be heard on merits. That application was dismissed for default. The defendant applied for restoration of that application. As a result of the order impugned in the petition is to hear the defendant's application on merits, in my opinion, it cannot be said that the order impugned in the petition has resulted any injustice or failure of justice. Therefore, petition cannot be entertained. however, considering the facts and circumstances of the case, the Trial Court is directed to treat the application filed by the defendant which is registered as miscellaneous application No.9 of 2000 as alive and hear it on merits and dispose off in accordance with law as expeditiously as possible. Petition is disposed off.

. Parties to act on the copy of this order duly authenticated by the Sheristedar / Personal Secretary of this Court as true copy.

. Certified copy expedited.